



Risk Management Case Studies

The National Trust Experience

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The National Trust as a landowner / manager

We have quite a lot to consider:

Coastline – over 700 miles

Land of outstanding natural beauty – 250,000 hectares

Historic buildings – over 300

Archeological sites – 73,000

Not possible to have a “one size fits all” approach to risk / public access across all the sites.



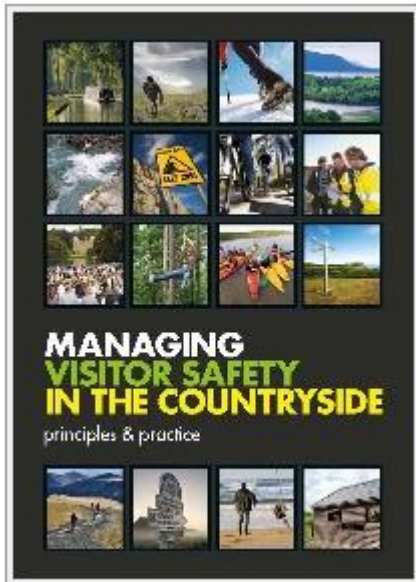
It would look very different if the risks were removed...





Managing Visitor Safety in the Countryside

The National Trust firmly adopts the strategy within “Managing Safety in the Countryside Principles and Practice” when considering its approach to land use and access.



- *It is not practical, or even possible, to provide visitors with risk-free environments.*
- *We must do all that is reasonably practicable to create a safe environment.*
- *A safe environment can be defined as one where the level of risk is broadly acceptable to both the visitor and society at large.*



Adequate Risk Assessment

It is generally better practice to record and capture that you have considered all types of risks and management options and why you have discounted them or not considered it to be reasonably practicable to take certain steps at the outset, rather than trying to justify why you didn't do something later down the line.

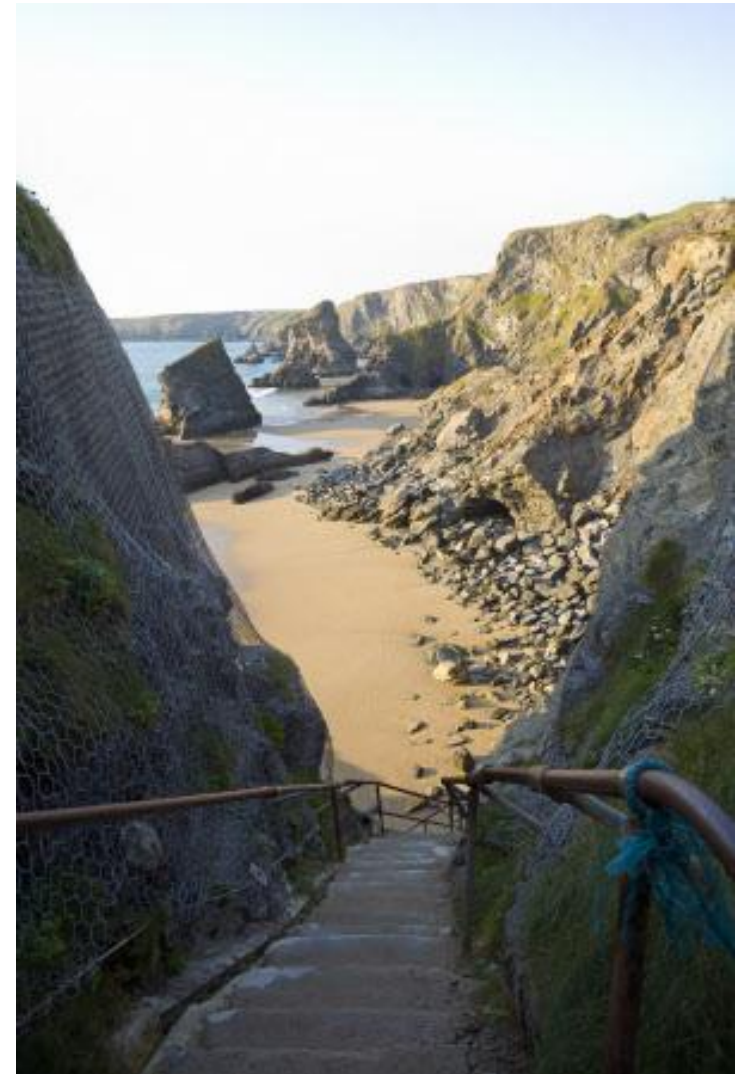
Considering:

- The type of land;
- The type of activity;
- The type of access;
- The type and volume of visitor;
- The level of knowledge or experience of visitors;
- The types of risk management that are available.





Case Study Carnewas, Cornwall





This is a property on the North Cornwall coast, the sea stacks are known as Bedruthan Steps. There are extensive cliff walks, much of the cliff edge is unfenced, there is a steep staircase down to the beach (which incidentally is not owned by the National Trust). It is a hazardous natural environment with risks of rockfalls and dangerous currents.

NT had already “intervened” in the natural landscape by undertaking rock bolting, rock safety netting and in the installation of handrails to allow safe access to the beach.

Local Authority wanted NT to provide sections of cliff edge fencing and to provide staff to supervise the beach. NT felt that this was not appropriate and inconsistent with the approach of other landowners along the coast.

Further there was a risk that fencing would have encouraged people to go right up to the fencing and arguably too close to the cliff edge. It would have exposed NT staff and contractors to unacceptable risks regarding the installation and above all it was highly impracticable to fence the whole coastline. So there would always be unfenced sections where the risk would remain.

The risk assessment process captured these issues and helped persuade the local authority that there were better steps to take. Instead NT placed greater emphasis on managing access and informing visitors of the risks through safety information.



Case Study Hardwick Hall





Hardwick Hall is a property not all that far from here in Derbyshire. It includes not only the Hall itself but a large country park which is a popular with visitors – particularly visitors from nearby urban populations.

Within the park are two large lakes and number of small ponds. The ponds themselves are roughly square in shape, roughly 20m across and in places over 2m deep. The ponds are used for licenced fishing.

In the late 90s a 45year old father went into one of the ponds for a swim and drowned. His widow bought a claim against the Trust for compensation. The case considered the Trust's duties to warn against and to take steps to prevent swimming in the pond.

At first instance the Judge found in favour of the claimant, following their expert who had suggested that the pond was unsuitable for swimming and their should have been a strategy in place to prevent swimming, the lack of such a strategy meant that the accident was, in the Judge's opinion, mainly attributable to the Trust's own failings and therefore awarded compensation.

The NT went to the Court of Appeal and argued that the original decision should be overturned – the CoA agreed, noting that people should take proper responsibility for their own actions. In following the Claimant's argument through to its full conclusion it would require all inland water sites and the entire coastline to be marked with “no swimming” signs . Other than being deep and murky, the Court decided that there were no additional dangers involved in swimming in this pond, and therefore no warning sign was needed.

Leave to appeal to the House of Lords was sought by the claimant but was refused and the Court of Appeal decision stood.



Hardwick Hall was followed by a similar case where a man ran into a Council owned lake, where there were “no swimming” signs, dived in and broke his neck. The case went all the way to the House of Lords {Tomlinson v Congleton BC [2004] 1 AC 46} where Lord Hoffmann made the following comments:

“The risk was that he might not execute his dive properly and so sustain injury. Likewise a person who goes mountaineering incurs the risk that he might stumble or misjudge where to put his weight. In neither case can the risk be attributed to the state of the premises. Otherwise any premises can be said to be dangerous to someone who chooses to use them for some dangerous activity.”

“It will be extremely rare for an occupier of land to be under a duty to prevent people from taking risks which are inherent in the activities they freely choose to undertake upon the land. If people want to climb mountains, go hang-gliding or swim or dive in points or lakes, that is their affair.”